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Human Rights Council
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Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Al-Haq, Law in the Service of Man, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14480(E)
1814480

Please recycle

The UN Database: A Tool to Counter Persistent Corporate Human Rights Abuses in the Occupied Palestinian Territory

On 20 April 2016, the United Nations (UN) Human Rights Council adopted Resolution 31/36 titled 'Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan,' which allocates resources to establish and maintain a detailed database listing businesses operating and/or affiliated in or with illegal Israeli settlements constructed in the territories occupied by Israel since 4 June 1967, encompassing the West Bank, including East Jerusalem, the Gaza Strip, and the occupied Syrian Golan.1 The database established pursuant to Human Rights Council Resolution 31/36 (hereinafter the UN Database) was first expected to be released by the Office of the High Commissioner for Human Rights (OHCHR) in February 2017, but continued to be delayed. In January 2018 a report was issued by OHCHR which described the methodology used, and also noted that a number of companies had been contacted. However, to this date, the publication of the UN Database, with a list of company names, continues to be stalled,2 including as a result of reported pressure exerted on OHCHR by Israel and the United States of America.3

Israeli and multinational businesses operating in and/or with illegal Israeli settlements in the occupied Palestinian territory (oPt)4 contribute to and profit from the commission of serious human rights violations, as well as grave breaches of the Fourth Geneva Convention, against the occupied Palestinian population. Israel's settlement enterprise is perpetrated by unlawful means and methods, including: unlawful land appropriation; the exploitation of natural resources, including water apartheid;5 the obstruction of the Palestinian right to development; and severe restrictions imposed on Palestinians' freedom of movement.6 Both state and non-state actors contribute to these abuses.

There are currently more than 230 illegal Israeli settlements and outposts in the occupied West Bank, including in East Jerusalem, where hundreds of corporations operate and/or conduct activities, substantially profiting from a situation recognised as unlawful by the international community. The inextricable link between settlements, corporations, and human rights abuses against the occupied Palestinian population has been established and reiterated by OHCHR. In January 2018, it noted:

> "Businesses play a key role in facilitating the overall settlement enterprise, contributing to Israel's confiscation of land and the transfer of its population through commercial development. Some are directly involved in the confiscation of land by carrying out demolitions that make way for settlement residential communities or associated infrastructure, or by financing or executing settlement construction itself. Others provide services that ensure the sustainability of residential settlement communities, such as transport services that connect the settlements to Israel proper, tourism activities that contribute to the profitability of the settlements, and telecommunication services."7

As briefly presented in this submission, Israeli and multinational business enterprises will continue to profit from the unlawful exploitation of natural resources and land in the oPt and contribute to Israel's unlawful settler-colonial enterprise and prolonged occupation – at the expense of the occupied Palestinian population's welfare, livelihoods and

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1 UN Human Rights Council, Resolution 31/36 (2016), UN Doc No. A/HRC/RES/31/36.

2 Joint Written Statement submitted by Al-Haq and Badil, Seven Decades of Impunity: The United Nations Human Rights Council Must Hold Israel to Account, 25 May 2018, A/HRC/38/NGO/119; and Joint Written Statement submitted by Al-Haq and Cairo Institute for Human Rights Studies, Israeli Occcupation Further Entrenched with Business Operations: Update on Wineries, Banks, Fisheries and Other Industries in the Occupied Palestinian Territories, 2 February 2018, A/HRC/37/NGO/99.

3 *See*, for example, Jerusalem Post, U.N. Could Update Settlement Blacklist Prior to September, 19 June 2018, available at: https://www.jpost.com/Arab-Israeli-Conflict/UN-to-renew-blacklist-of-companies-working-in-West-Bank-east-Jerusalem-560307

4 Israeli settlements are illegal under international law. *See*, for example, UN Security Council, Resolution 2334 (2016), UN Doc No. S/RES/2334 (2016), 23 December 2016.

5 "Due to the severe water cuts and the limited coverage by the water network in the OPT, many communities have had to resort to purchasing expensive water delivered by water tankers. This form of supply increases the price of water to an average of eight times or more what Israeli settlers pay." *See* Al-Haq, "Water For One People Only: Discriminatory Access and 'Water-Apartheid' in the OPT" (2013), available at: http://www.alhaq.org/publications/publications-index/item/water-for-one-people-only-discriminatory-access-and-water-apartheid-in-the-opt

6 *See* UN General Assembly, UN Doc No. A/70/82–E/2015/13, 8 May 2015.

7 UN Human Rights Council, UN Doc No. A/HRC/37/39, 1 Feb 2018, para. 46.

economy. The international community must fulfil its obligations and put an end to such international crimes; Member States can foster a tool for accountability by supporting the UN Database.

1. Multinational Corporations in illegal Israeli settlements

Multinational corporations HeidelbergCement AG (headquartered in Germany),8 through its subsidiary Hanson Israel, is actively operating in Israeli settlements in the occupied West Bank. For example, the Nahal Raba Quarry, currently owned by HeidelbergCement through its subsidiary Hanson Israel, was established in 1983 west of the Palestinian village of Al-Zawiya in Salfit governorate in the West Bank. The Quarry covers at least 600 dunums of Palestinian land that were appropriated by Israel in the 1980s and declared as 'State land'. Hanson Israel extracts stone and gravel from occupied Palestinian territory, which are manufactured and then sold in the Israeli market and settlements in the West Bank.

Corporations in the West Bank involved in the quarrying sector, such as Hanson Israel, pay millions in royalties and taxes to Israeli settler councils and the Israeli Civil Administration (ICA),9 directly contributing to the expansion of illegal settlements and the illegal transfer of Israel's civilian population into the oPt. Between 2009 and 2015, the ICA received approximately USD 78.4 million worth of royalties from quarries in Area C.10 It should be noted that in 2011, the Israeli High Court ruled to justify and allow for the exploitation and pillage of natural resources in the oPt,11 granting Israeli and multinational corporations the right to quarry.

2. Israeli Corporations in illegal Israeli Settlements

Israeli corporations operating in Israeli settlements systematically exploit Palestinian natural resources, including land and water, to produce products and agricultural goods that are often exported abroad and to the Israeli market. Revenues from exports of such businesses help support, maintain, and expand Israeli settlements; this is exemplified in the occupied Jordan Valley. For example, Zorganika, an Israeli agricultural company producing bio-organic Medjoul (Mejhoul) dates, is located in the Jordan Valley and on 1,000 dunums of privately owned Palestinian land that was confiscated in 1967 by Israeli Military Order No. 287 of 1967.12 The corporation exports its produce to Europe and the United States of America under the pretence of being produced in Israel. Amongst others, Zorganika deliberately misinforms consumers of its products' origin. In a recent attempt by the Palestinian landowners to regain access to their confiscated land, the Israeli Supreme Court recognized the property rights of the Palestinian owners but failed to allow them access to their land.13

3. The Importance of the UN Database

In accordance with the UN Guiding Principles on Business and Human Rights (hereinafter UNGPs), businesses have an obligation to respect internationally recognized human rights and to conduct human rights due diligence to assess actual and potential human rights risks during their operations at home and abroad. States maintain a primary role in the protection against human rights abuses, including by third parties within their territory and/or jurisdiction, such as business enterprises.

The UN Database complements the UNGPs by serving as a mechanism for prevention as well as for accountability. Publishing the UN Database will encourage transparency, "enhanced" human rights due diligence, and corporate respect for human rights in the oPt. These principles have been reiterated and supported by States, both in their National Action Plans, as well as in their practices as related to other conflict-affected areas.

The publication of the UN Database, as well as business responses to OHCHR, will facilitate transparency for companies, states, and consumers alike. Businesses have an obligation to indicate and make public accurate information

8 *See*, for example, communication between Al-Haq and HeidelbergCement AG: Al-Haq, "Business and Human Rights Resource Center Al-Haq Response to HeidelbergCement" (10 October 2017), available at: http://www.alhaq.org/advocacy/targets/united-nations/1147-business-and-human-rights-resource-center-al-haq-response-to-heidelbergcement.

9 Human Rights Watch, "Occupation Inc.: How Settlement Businesses Contribute to Israel's Violations of Palestinian Rights" (19 January 2016), available at: https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian.

10 Yesh Din, The Great Drain: Israeli Quarries in the West Bank: High Court Sanctioned Institutional Theft, 14 September 2017, available at: https://www.yesh-din.org/en/great-drain-israeli-quarries-west-bank-high-court-sanctioned-institutionalized-theft/

11 Israeli High Court of Justice, Judgment, HCJ 2164/09.

12 Israeli Military Order No. 287 (1967).

13 Israeli Supreme Court Decision No. 6427/13.

regarding their production chain line, the origin of their products, and their affiliations at home and abroad, to both consumers and investors. The Database can thus be used as tool for businesses when evaluating their business activities and relationships. The publication of the UN Database can also enhance states' regulatory functions, by facilitating coherent and consistent domestic policies, in line with their obligations under international law.

Maintaining and updating the UN Database as a dynamic mechanism to document, report and engage with companies, as well as their home states, requires that states support the UN Database, including through cooperating with the mechanism and allocating resources to maintain it. The importance of the UN Database, both for the oPt as well as a blueprint for other contexts, cannot be underestimated. States, who have already expressed their support of the UNGPs, must continue to uphold the rights of indigenous peoples and populations against corporate abuse, and must not turn a blind eye to businesses operating in and with Israeli settlements.

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Human rights situations that require the Council's attention

Written statement* submitted by the Liberation, a non-governmental organization on roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 August 2018]

* Issued as received, in the language(s) of submission only.

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1814481

Please recycle

Protection of Indigenous Peoples' Rights vis-a-vis the Ongoing Indo-Naga Peace Talks

Mr. President and Members of the Council,

We are deeply concerned about the growing opposition and continuing protests against the Indo-Naga peace process between the Government of India (GOI) and National Socialist Council of Nagaland- Isaac Muivah (NSCN-IM), by the neighbouring states which threaten to derail the peace process and result in continued violations of the rights of indigenous Naga people.

Nagas are transnational indigenous people with a population of approximately 4 million and comprising about 60 tribes, inhabiting parts of north-east India and north-west Myanmar. The Nagas were divided between India and Myanmar during the colonial transfer of power from Great Britain to these two countries in 1940s. This has had an adverse impact in maintaining relationship and ties among themselves which contravenes Article 36 of the United Nations Declaration on the Rights of Indigenous Peoples that says "Indigenous peoples, in particular those divided by international borders have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders".

The Naga resistance movement and their struggle for right to self-determination that started in a peaceful democratic movement was suppressed with martial laws. Armed conflict between the Indian state and the armed opposition forces of Nagas began in the early 1950s and ever since the history of the Naga peoples has been marred by violence reinforced by undemocratic laws and regulations for more than half a century.

With the signing of the historic Indo-Naga ceasefire between GOI and NSCN-IM in 1997, Nagas hope for peace was founded. The Nagas appreciate the GOI for recognising the unique history of the Nagas and it is our hope that the political solution will be based on historical facts and legitimacy.

However, since the signing of the most recent Indo-Naga Framework Agreement 2015, the governments of neighbouring Indian states as well as some sections of the civil society organisations, particularly in the state of Manipur, are spreading wrongly alleging that this agreement "compromises territorial integrity of the state". This propaganda is being deliberately carried out to sabotage the Naga peace process and continues till this day with increased hostile protests that threaten to negatively impact social harmony.

In particular, the Government of Manipur (GOM), together with some sections of civil society organisations, is not only opposing the integration of all Naga inhabited areas but also opposed to the proposal for any special provisions that promotes and protects the cultural identity, political, economic and social status of the Nagas. This is a perpetuation of the agenda of subjugation and discrimination that has been adopted by the GOM and sections of the people of Manipur against the Nagas. It has resulted in historical injustices in terms of the Naga peoples' ability to exercise their rights fully. For instance, there is an extreme perversion in the number of seats in the Legislative Assembly allocated for hill areas (20 seats for 47% of the population who lives in and occupies 90% of the total geographical area of Manipur as opposed to 40 seats for the remaining); health, sports, and educational institutions are concentrated in and around Imphal adversely affecting the ability of those in the hill areas to access these facilities thereby impacting their rights.

Several actions directed towards disrupting the Indo-Naga peace process are being systematically carried out by Indian States and her defense system, including intelligence agencies, in the state of Manipur. Some of the accounts are:

1. There were widespread violent protests against the ceasefire extension in the Meitei-dominated areas of Manipur on 18 June 2001 and following days, in which 18 Meitei people lost their lives. Owing to these protests, the GOI revised the Bangkok Agreement of 2001 deleting the phrase "without territorial limits" from the ceasefire ground rules. This has caused a setback to the ongoing peace negotiation;

2. The Naga peoples' demand for integration of all Naga inhabited areas and their territories is being vigorously opposed by the Government of Manipur and some sections of the civil society organisations in Manipur, including strong objection to the proposal for one administrative unit for all the Nagas living in the four states of Assam, Arunachal Pradesh, Manipur and Nagaland, and the GOI's proposal for special status to the Nagas living in the states of Arunachal Pradesh, Assam and Manipur.

Naga women as Peacebuilders:

Naga women have played constructive roles in conflict resolution and peacebuilding in the Naga society, particularly in the context of factional conflicts among different Naga armed groups. They have been proactively engaged in peace initiatives to strengthen the ongoing Indo-Naga peace process. They have been campaigning for the repeal of the Armed Forces Special Power Act, 1958 since 1980s.

In 1994, the Naga Mothers Association started a peace campaign under the theme 'Shed No More Blood' to address all kinds of violence, fratricidal killings and armed confrontations between the Indian military and Naga armed resistance groups. In 1997, when the Indo-Naga peace agreement was signed, Naga women took the initiative for peace further by starting a campaign to address the internal conflicts amongst different Naga armed groups. In 2000, Naga women, in partnership with Naga civil societies such as Naga Hoho, Naga Peoples Movement for Human Rights, Naga Student Federation and Naga churches, participated in another peace initiative called 'Journey of Conscience' encouraging people-to-people dialogue to bring about reconciliation and rebuild the Naga society. These peace initiatives have led to bilateral ceasefire, whereby belligerence and hostility are halted among different factions of Naga armed resistance groups.

In a recent development, other Naga armed resistance groups who were not initially part of the peace process have joined the peace talks. Since November 2017, a conglomeration of six other Naga armed groups is running parallel talks with the GOI. The GOI, through its interlocutor K.N. Ravi, has also been holding series of consultations with the Naga civil society organisations concerning the peace process. However, a final peace agreement has not yet been reached.

The Position of Naga Peoples:

It is the expressed will and desire of the Nagas to be united once more into ONE geopolitical entity. Nagas live on their own land that has belonged to them from time immemorial. The aspiration of the Nagas to live together is nothing unusual but natural. It is also a historical fact that Naga peoples were arbitrarily divided into different administrative units by the British as Indian state. The Nagas, for the fullest realisation of their identity and rights, therefore desire the unification of their land which is at the heart of their existence. The Naga peoples' assertion is founded on the principles of self-determination prominently embodied in article 1 of the International Covenant on Civil and Political Rights as well as of the International Covenant on Economic, Social and Cultural Rights. That right is further reinforced in article 3 of the United Nations Declaration on the Rights of Indigenous Peoples that says "All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development".

In conclusion, we call upon the international community and the UN to support the ongoing Indo-Naga Peace process, for a conclusive solution based on the principles and values of human rights.

We also recommend the HRC to:

1. Urge the GOI and the negotiating parties to respect democratic processes and the rights of indigenous peoples with particular reference to article 3 of the United Nations Declaration on the Rights of Indigenous;

2. Urge the GOI to welcome third neutral parties, including UN bodies, to aid in expediting the Indo-Naga peace negotiations for bringing an honourable lasting political solution to the protracted Naga political issue;

3. Send a team of experts to assess the developments surrounding the Indo-Naga peace negotiations and advise the GOI in devising mechanisms around the obstructive forces against the Indo-Naga peace process for ensuring early settlement of the issues involved;

4. Send a human rights delegation, including the SR on the rights of Indigenous Peoples to assess the human rights situation in Northeast India to ascertain facts on the ground and to encourage and/or initiate dialogue among the communities in the region based on universally accepted standards and principles.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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1814482

Please recycle

Human Rights Now Expresses Grave Concern over the Revocation and Invalidation of Human Rights Lawyers' Licences in China

Human Rights Now (HRN), a Tokyo-based human rights NGO, expresses grave concern about the situation of human rights lawyers in China whose licences have recently been revoked or invalidated by the Chinese government, continuing a nationwide crackdown against activist lawyers that began with intimidation and detention of lawyers on 9 July 2015, commonly referred as the 709 Crackdown. HRN calls on the government of China to release arbitrarily detained lawyers, reinstate arbitrarily revoked legal licenses, and end its harassment and crackdown of rights lawyers.

1. Human Rights Lawyers' Licenses Revoked or Invalidated as Arrests and Interrogations Continue

Three years ago, on 9 July 2018, it was reported that at least 321 lawyers, paralegals, law assistants, law firm staff, human rights activist and their family members have been "questioned, summoned, forbidden to leave the country, held under house arrest, residential surveillance, criminally detained or arrested," many facing charges of subversion and being labelled by state media as part of a "major criminal gang".1 Specifically, it was reported that, of this number:

- 1 lawyer is awaiting trial (Wang Quanzhang);
- 14 have been sentenced, 5 of which are serving their sentence (Wu Gan, Lawyer Zhou Shifeng, Hu Shigen, Lawyer Jiang Tianyong, Yin Xu'an), 3 serving a suspended sentence (Lawyer Li Heping, Gou Hongguo, Zhai Yanmin), 5 of which have completed their sentence (Liu Xing, Zhang Wanhe, Yao Jianqing, Li Yanjun, Wang Fang), and 1 of which was exempted from criminal punishment (Lawyer Xie Yang);
- 1 lawyer is under residential surveillance (Zhang Kai),
- 25 have seen their bail conditions lifted, 11 of which are lawyers (Wang Qiushi, Huang Liqun, Siu Muqing, Xie Yuandong, Li Zhuyan, Wang Yu, Bao Longjun, Ren Quanniu, Liu Sixin, Li Chunfu, Ren Quanniu).
- 43 are forbidden to leave the country,
- 265 have been temporarily detained, forcibly questioned or summoned, and 1 had their charges dropped.2

Even years later, the assaults have continued. For example, the lawyer Yu Wensheng had his legal license revoked and was detained on 19 January 2018 after posting two open letters online calling on the National People's Congress to take constitutional reforms and for Xi Jinping to be dismissed; he was later indicted for "inciting subversion of state power" and "disrupting public services".3

In addition, from October 2017 to July 2018, at least 16 human rights lawyers and 3 law firms across the country have had their licences revoked or invalidated by the government through administrative punishment, depriving them of their rights to practice law in China.4 In 2016, the Chinese government revised two regulations (Measures on the Administration of Law Firms and Measures on the Administration of Lawyers' Practice)5 which provide legal grounds for the Ministry of Justice to expand its arbitrary power to exert administrative sanctions against lawyers. The amended regulations mandate

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1 China Human Rights Lawyers Concern Group (CHRLCG), ["709 Crackdown"] Latest Data and Development of Cases as of 1800 7 July 2018. http://www.chrlawyers.hk/en/content/%E3%80%90%E2%80%9C709-crackdown%E2%80%9D%E3%80%91-latest-data-and-development-cases-1800-7-july-2018.Reuters, "In 2015, China crushed rights lawyers but activists are still organizing", 9 July 2017, https://www.reuters.com/article/us-china-rights-idUSKBN19U05T.

2 *Id.*

3 Reuters, "Detained Chinese rights lawyer charged with subversion of state power", http://www.reuters.com/article/us-china-rights/detained-chinese-rights-lawyer-charged-with-subversion-of-state-power-wife-idUSKBN1FJ0HO

4 CHRLCG, "A Global Joint Statement on the 3rdAnniversary of 709 Crackdown and China Human Rights Lawyers' Day", 9 July 2018. http://www.chrlawyers.hk/en/content/global-joint-statement-3rdanniversary-709-crackdown-and-china-human-rights-lawyers%E2%80%99-day#_ftn2.

5 Chinese Human Rights Defenders, "Revised Measures on Law Firms Further Curb Independence of Chinese Lawyers", 3 October 2016. https://www.nchrd.org/2016/10/chrb-revised-measures-on-law-firms-further-curb-independence-of-chinese-lawyers-921-103-2016/.

that law firms and individual lawyers must embrace the CCP and socialist system. In the same way, under Article 50 "law firms may be required to dismiss lawyers for conduct such as speaking online or commenting about cases publicly, or the law firms could have their license revoked,"6 which infringes lawyers' rights to freedom of expression under the Universal Declaration of Human Rights (UDHR) and Chinese civil and constitutional law. Notably, more than half of the lawyers affected by these measures are 709 detainees or defence lawyers of the 709 detainees.7

2. Legal duties and International Standards Violated or Implicated by the Government of China's Harassment of Lawyers

The harassment and arbitrary administrative sanctions imposed on lawyers, legal assistants, and law firms by Chinese authorities for the content of their work violates their freedom of expression, guaranteed by the Universal Declaration of Human Rights (UDHR) Article 19, and in cases of arbitrary detention, UDHR Article 9. The Constitution of the People's Republic of China Article 35 has also been violated according to the language of its terms that "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration."

This situation is also a flagrant violation of the United Nations Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990.8 Article 16, using the language of obligation, provides that:

> *Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.*

Article 23 of the Basic Principles also guarantees lawyers' right to freedom of expression and association, providing that:

> *Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.*

3. Call to Action

Human Rights Now expresses deep concern about the continuing harassment of rights lawyers in China and urges the Chinese government to:

- End its suppressive crackdown by releasing all detained human rights lawyers and activists and revoking their convictions;
- Withdraw any further decision in respect to the revocation and invalidation of human rights lawyers' licenses in compliance with the UN Basic Principles on the Role of Lawyers;
- Discharge the revocations of legal licenses already made and ensure the free exercise of the legal profession; and
- Cease all forms of political and professional repression and harassment against human rights lawyers, legal assistants, and law firms in compliance with relevant domestic legislation and international duties and principles.
- Review and revise its criminal procedure law and regulations, as well as laws and regulations on lawyers and law firms, to comply with international duties and standards on criminal due process and treatment of lawyers as

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6 *Id.*

7 CHRLCG, "Joint Statement", 7 June 2018, http://www.chrlawyers.hk/en/content/%E3%80%90-joint-statement-strongly-condemn-chinese-government%E2%80%99s-suppression-against-human-rights.

8 United Nations Basic Principle of the Role of Lawyers, https://www.ohchr.org/en/professionalinterest/pages/roleoflawyers.aspx.

provided in the UDHR, UN Basic Principles on Role of Lawyers, and the ICCPR which China has signed since 1998.